

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 909 of 2001

in

SPECIAL CIVIL APPLICATION No 6450 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

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JEHABHAI KAMABHAI SOLANKI

Versus

DEPUTY EXECUTIVE ENGINEER

Appearance:

1. LETTERS PATENT APPEAL No. 909 of 2001

MR NEHAL R JOSHI for Appellant No.

CORAM : MR.JUSTICE A.R.DAVE

and

MR.JUSTICE D.P.BUCH

Date of decision: 05/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

The judgment dated 8.8.2001 delivered in Special Civil Application No.6450/2001 has been challenged in this appeal by the appellants. We have heard learned Advocate Mr N R Joshi for the appellants.

2. It has been submitted by Mr N R Joshi that the petition filed by the appellants was rejected because the appellants-petitioners (hereinafter referred to as the 'petitioners') had not given reasons for which the delay was caused in approaching this Court. In the Special Civil Application, the petitioners had challenged the order passed by the Labour Court, Palanpur in Reference (LCB) 45/96. The order of the Labour Court was passed on 29.6.2000 whereas the petition was filed on 1.8.2001. As the appellants-petitioners could not show any justifiable reason for the delay to the learned Single Judge, the petition was rejected on the ground of delay. It has been submitted by the learned Advocate that an opportunity ought to have been given to the petitioners to make submission on merits of the case but no opportunity was given by the learned Single Judge and the petition was rejected.

3. It is not in dispute that the learned Single Judge has rejected the petition only on the ground of delay. In the circumstances, we have permitted learned Advocate Mr N R Joshi to argue the matter on merits. It has been submitted by the learned Advocate that the petitioners should have been continued to perform the work as daily wagers by the respondent authorities but without following any legal provisions, services of the petitioners were terminated. It has been also submitted that the petitioners were also not engaged as daily wagers under other works undertaken by the respondent authorities.

4. We have heard learned Advocate for the petitioners and have also perused the impugned order passed by the Labour Court. Upon perusal of the impugned order, it is very clear that the petitioners had not worked for 240 days or more in any year. In the circumstances, the petitioners had no right to get retrenchment compensation or to continue as daily wagers, especially when the petitioners were engaged as daily wagers and their services were taken by the respondent authorities as and when there was work for them. We do not find any illegality committed by the Labour Court

while passing the impugned order.

5. It has been submitted by learned Advocate Mr Joshi that there is some work which is going on under the present respondents. It has been submitted by him that in view of the fact that the petitioners had worked for some time under the respondents, the respondents should prefer them if fresh daily wagers are to be engaged. We are sure that the respondent-authorities will give priority to the petitioners if new daily wagers are to be engaged by them for any work.

6. Subject to the above observations, we dismiss this appeal with no order as to costs. Direct Service is permitted.

5.9.2001 [A R Dave, J.]

msp. [D P Buch, J.]